

ESTTA Tracking number: **ESTTA239842**

Filing date: **09/30/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Trustees of Dartmouth College
Granted to Date of previous extension	10/01/2008
Address	Dartmouth College Hanover, NH 03755 UNITED STATES

Attorney information	William R. Hansen Lathrop & Gage L.C. 230 Park Avenue, Suite 1847 New York, NY 10169 UNITED STATES whansen@lathropgage.com,bshort@lathropgage.com,tfitzgerald@lathropgage.com Phone:(212) 850-6220
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Applicant Information

Application No	77355362	Publication date	06/03/2008
Opposition Filing Date	09/30/2008	Opposition Period Ends	10/01/2008
Applicant	Miles, Ralph 1390 Liberty Avenue North Bellmore, NY 11710 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Financial services, namely, investment management services, investment advisory services and asset management services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	987129	Application Date	10/19/1972
Registration Date	06/25/1974	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U107 (International Class 041). First use: First Use: 1769/00/00 First Use In Commerce: 1769/00/00 EDUCATIONAL SERVICES-NAMELY, OFFERING COLLEGE AND GRADUATE LEVEL COURSES

U.S. Registration No.	1226625	Application Date	06/16/1981
Registration Date	02/08/1983	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1839/11/00 First Use In Commerce: 1905/10/00 Publications-Namely, Magazines, Books, Newspapers, Newsletters, and Pamphlets		

U.S. Registration No.	1953477	Application Date	04/17/1995
Registration Date	01/30/1996	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 1900/00/00 First Use In Commerce: 1989/07/24 textile articles, namely pennants		

U.S. Registration No.	1953478	Application Date	04/17/1995
Registration Date	01/30/1996	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1991/03/21 First Use In Commerce: 1991/03/21 pens and pencils		

U.S. Registration No.	2536444	Application Date	06/15/2001
Registration Date	02/05/2002	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1900/00/00 First Use In Commerce: 1900/00/00		

	Bags, namely backpacks all purpose athletic bags, book bags, gym bags, school book bags, school bags, tote bags
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U.S. Registration No.	2536479	Application Date	06/20/2001
Registration Date	02/05/2002	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1930/00/00 First Use In Commerce: 1930/00/00 Printed matter, namely decals and bumper stickers		

U.S. Registration No.	2962161	Application Date	08/19/2003
Registration Date	06/14/2005	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1839/11/01 First Use In Commerce: 1905/10/01 Publications, namely, alumni magazines, books, newspapers, newsletters and pamphlets		

U.S. Registration No.	3015237	Application Date	06/18/2004
Registration Date	11/15/2005	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1900/01/01 First Use In Commerce: 1900/01/01 Clothing, namely, jackets, sweaters, sweat shirts, knit shirts, athletic jerseys, t-shirts, night shirts, sweat pants, pants, shorts, boxer shorts, pajamas, hats, ski hats, caps, headbands, gloves, mittens, scarves, ties, belts, socks		

U.S. Registration No.	3147043	Application Date	04/17/1995
Registration Date	09/26/2006	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1989/07/06 First Use In Commerce: 1989/07/06 jewelry, namely pins, tie bars and tacks, pendants, charms, cufflinks, watches		

U.S. Registration No.	3330939	Application Date	04/01/2005
Registration Date	11/06/2007	Foreign Priority Date	NONE
Word Mark	DARTMOUTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/09/01 First Use In Commerce: 2005/09/01 Clothing, namely, ski hats, jackets, sweaters, scarves, caps, socks, sweat shirts, sweat pants, athletic jerseys, shorts, T-shirts, knit shirts, pants, hats, headbands and undergarments		

Attachments	72438825#TMSN.gif (1 page)(bytes) 76272056#TMSN.gif (1 page)(bytes) 76274465#TMSN.gif (1 page)(bytes) 78437622#TMSN.jpeg (1 page)(bytes) 74662185#TMSN.gif (1 page)(bytes) 78600362#TMSN.jpeg (1 page)(bytes) NOTICE OF OPPOSITION.pdf (10 pages)(290790 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/william r. hansen/
Name	William R. Hansen
Date	09/30/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Ser. No. 77/355,362
Published in the Official Gazette of June 3, 2008

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TRUSTEES OF DARTMOUTH COLLEGE,	:	
Opposer,	:	Opp. No.
v.	:	
Miles, Ralph,	:	
Applicant.	:	
-----X		

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Trustees of Dartmouth College ("Opposer" or "Dartmouth College"), a non-profit corporation recognized by the State of New Hampshire located in Hanover, New Hampshire 03755, believes it will be damaged by the registration of Application Serial No. 77/355,362 for the designation DARTMOUTH CAPITAL GROUP as a trademark for "Financial services, namely, investment management services, investment advisory services and asset management services" (hereinafter "Applicant's Goods") filed December 19, 2007 by Ralph Miles ("Applicant" or "Miles") and published in The Official Gazette of June 3, 2008, and having previously been granted two extensions of time to oppose, hereby opposes the same.

The grounds for opposition are as follows:

1. Dartmouth College is a corporation first established by Royal Charter on December 18, 1769 and duly recognized by the State of New Hampshire as a non-profit corporation with its principal place of business in Hanover, New Hampshire.

2. Since December 18, 1769, the Opposer has continuously engaged in providing all types and manner of educational services at the college and graduate school level. Dartmouth College has achieved widespread fame and respect as one of the pre-eminent educational institutions in the U.S., if not the world.

3. Since December 18, 1769, the Opposer has principally used the names and marks DARTMOUTH and DARTMOUTH COLLEGE in various forms in the offering of its educational services in the State of New Hampshire, throughout the United States and the world, for the purposes of identifying and distinguishing the Opposer's goods and educational services from those of others.

4. Since long prior to the filing date of the application herein opposed, the Opposer, both directly and through its authorized licensees, has used the names and marks DARTMOUTH and DARTMOUTH COLLEGE in various forms on and in connection with services provided to others in the nature of college and graduate-level coursework in the area of business administration and finance throughout the United States.

5. The Opposer is the owner of names, trademarks and service marks DARTMOUTH and DARTMOUTH COLLEGE and is the owner of the following registrations in full force and effect on the Principal Register for the mark DARTMOUTH, the first six of which are incontestable by operation of law:

Trademark	Reg. No.	Reg. Date	International Class and Goods
DARTMOUTH	987,129	June 25, 1974	Class 41: Educational Services-namely, offering college and graduate level courses
DARTMOUTH	1,226,625	February 8, 1983	Class 16: Publications-Namely, Magazines, Books, Newspapers, Newsletters, and Pamphlets
DARTMOUTH	1,953,477	January 30, 1996	Class 24: textile articles, namely pennants
DARTMOUTH	1,953,478	January 30, 1996	Class 16: pens and pencils
DARTMOUTH	2,536,444	February 5, 2002	Class 18: Bags, namely backpacks all purpose athletic bags, book bags, gym bags, school book bags, school bags, tote bags
DARTMOUTH	2,536,479	February 5, 2002	Class 16: Printed matter, namely decals and bumper stickers
DARTMOUTH	2,962,161	June 14, 2005	Class 16: Publications, namely, alumni magazines, books, newspapers, newsletters and pamphlets
DARTMOUTH	3,015,237	November 15, 2005	Class 25: Clothing, namely, jackets, sweaters, sweat shirts, knit shirts, athletic jerseys, t-shirts, night shirts, sweat pants, pants, shorts, boxer shorts, pajamas, hats, ski hats, caps, headbands, gloves, mittens, scarves, ties, belts, socks
DARTMOUTH	3,147,043	September 26, 2006	Class 14: jewelry, namely pins, tie bars and tacks, pendants, charms, cufflinks, watches
DARTMOUTH and Design	3,330,939	November 6, 2007	Class 25: Clothing, namely, ski hats, jackets, sweaters, scarves, caps, socks, sweat shirts, sweat pants, athletic jerseys, shorts, T-shirts, knit shirts, pants, hats, headbands and undergarments

The Opposer is also the owner of the following registrations in full force and effect on the Principal Register for marks incorporating the name and mark DARTMOUTH:

Trademark	Reg. No.	Reg. Date	International Class and Goods and Services
1769 COL: DARTMOUTH NOV:HANT:IN AMERICA (Alternative Seal)	2,305,032	January 4, 2000	Class 25: Clothing, namely, shirts, T-shirts, sweat shirts, sweat pants, pants, shorts, boxer shorts and socks, jackets, sweaters, hats, belts, pajamas, night shirts and ties
1900 TUCK AT DARTMOUTH and Design	1,541,511	May 30, 1989	Class 16: Publications namely, magazines, books, newsletters and pamphlets
1900 TUCK AT DARTMOUTH and Design	2,041,855	March 4, 1997	Class 21: Drinking and beverage glassware and porcelain and earthen ware mugs
1900 TUCK AT DARTMOUTH and Design	2,041,854	March 4, 1997	Class 25: Clothing, namely T-shirts and sweatshirts
1900 TUCK AT DARTMOUTH and Design	1,538,529	May 9, 1989	Class 41: Educational services, namely conducting courses in business administration
D DARTMOUTH and Design	3,299,037	September 25, 2007	Class 25: Clothing, namely ski hats, jackets, sweaters, scarves, caps, socks, sweat shirts, sweat pants, athletic jerseys, shorts, T-shirts, knit shirts, pants, hats, headbands and undergarments

D DARTMOUTH BIG GREEN and Design	3,123,034	August 1, 2006	Class 25: Entertainment in the nature of athletic events, namely baseball, basketball, crew, cross country, equestrian, field hockey, football, golf, ice hockey, lacrosse, sailing, soccer, softball, skiing, squash, swimming and diving, tennis, track and field, volleyball, badminton, boxing, cheerleading, cricket, cycling, dressage, fencing, figure skating, frisbee, kendo, rugby, tae kwon do, tang soo do, triathlon, water polo; organization of sporting events, namely baseball, basketball, crew, cross country, equestrian, field hockey, football, golf, ice hockey, lacrosse, sailing, soccer, softball, skiing, squash, swimming and diving, tennis, track and field, volleyball, badminton, boxing, cheerleading, cricket, cycling, dressage, fencing, figure skating, frisbee, kendo, rugby, tae kwon do, tang soo do, triathlon, water polo
DARTMOUTHIMAGES.COM	3,128,682	August 15, 2006	Class 35: On-line retail store services featuring graphic art prints, posters and digital images on CDs and DVDs
DARTMOUTH AUTHENTICS and Design	1,729,497	November 3, 1992	Class 25: Athletic jerseys, sweat shirts, sweat pants, shorts, T-shirts, knit shirts, pants, hats, headbands
DARTMOUTH BIG GREEN	2,620,691	September 17, 2002	Class 25: Clothing, namely athletic jerseys, sweat shirts, sweat pants, shorts, T-shirts, knit shirts, pants, hats, headbands

DARTMOUTH COLLEGE	2,624,303	September 24, 2002	Class 25: Clothing, namely ski hats, sweaters, scarves, gloves, mittens, caps, socks, sweat shirts, sweat pants, athletic jerseys, shorts, T-shirts, knit shirts, pants, hats, headbands
DARTMOUTH LIFE	2,936,091	March 29, 2005	Class 16: Publications, namely periodical magazines concerning topics of general interest for undergraduates and alumni
DARTMOUTH MEDICAL SCHOOL 1797 and Design	1,476,263	February 9, 1988	Class 41: Educational services, namely conducting graduate level courses and awarding doctoral degrees in the fields of medicine, pharmacology, biochemistry and physiology
DARTMOUTH VOX CLAMANTIS IN DESERTO 1769 (and Design)	2,951,584	May 17, 2005	Class 14: Jewelry, namely, pins, tie bars and tacks, pendants, charms, cufflinks
DARTMOUTH VOX CLAMANTIS IN DESERTO 1769 (and Design)	3,141,127	September 12, 2006	Class 21: Glassware, namely glass beverageware, ice bucket, coffee mugs
DARTMOUTH VOX CLAMANTIS IN DESERTO 1769 (and Design)	3,112,676	July 4, 2006	Class 24: Towels; felt pennants
DARTMOUTH VOX CLAMANTIS IN DESERTO 1769 (and Design)	2,983,070	August 9, 2005	Class 25: Clothing, namely, hats, sweaters, scarves, caps, socks, sweat shirts, athletic jerseys, shorts, T-shirts, knit shirts, sweat pants, ties, boxer shorts
DARTMOUTH VOX CLAMANTIS IN DESERTO 1769 (and Design)	3,007,350	October 18, 2005	Class 6: Metal key fobs, metal key chains and metal key rings

DARTMOUTH WINTER CARNIVAL	2,101,507	September 30, 1997	Class 16: Posters
DARTMOUTH WINTER CARNIVAL	2,158,256	May 19, 1998	Class 25: T-shirts, sweatshirts and sweaters
DARTMOUTH WINTER CARNIVAL	2,158,219	May 19, 1998	Class 41: Entertainment in the nature of festival; athletic events, namely, ice hockey, track and field, and skiing; exhibitions, namely, ice and snow sculptures; and social activities, namely, dances, ceremonies, parades, polar swimming and concerts
THAYER SCHOOL OF ENGINEERING DARTMOUTH COLLEGE	1,966,401	April 9, 1996	Class 41: Educational services, namely conducting college and graduate level courses in engineering and other related courses in the fields of mathematics and applied sciences
THE DARTMOUTH ATLAS OF HEALTH CARE	2,553,014	March 26, 2002	Class 9: Computer programs for storing and retrieving a compendium of information in the field of health care and medicine
THE HANOVER INN AT DARTMOUTH COLLEGE	1,462,328	October 20, 1987	Class 42: Restaurant and hotel services

6. As a result of the care and skill exercised by the Opposer in the conduct of its educational services and as a result of the continuous excellence of these educational services, the names and marks DARTMOUTH and DARTMOUTH COLLEGE in various forms have acquired great fame and outstanding celebrity among the general public as identifying and distinguishing the Opposer's educational services in the nature of college and graduate-level coursework in the area of business administration and finance throughout the United States from those of others.

7. On December 19, 2007, Applicant applied to register the designation DARTMOUTH CAPITAL GROUP as a trademark for "Financial services, namely, investment management services, investment advisory services and asset management services" under Section 1(b) of the Trademark Law.

8. The services to be offered by Applicant under the designation DARTMOUTH CAPITAL GROUP are closely related to or complementary with the various products and services on and in connection with which Opposer has used and makes use of its famous name and marks DARTMOUTH and DARTMOUTH COLLEGE. Such proposed use of the designation DARTMOUTH CAPITAL GROUP by Applicant is likely to be encountered by the same class of consumers who are familiar with the use of DARTMOUTH and DARTMOUTH COLLEGE made by the Opposer.

9. Applicant's use of the designation DARTMOUTH CAPITAL GROUP when used in connection with applicant's services is likely to cause confusion, or to cause mistake or to deceive.

10. Based upon the foregoing, Opposer will be damaged by the registration of the Applicant's designation DARTMOUTH CAPITAL GROUP.

WHEREFORE, Opposer respectfully requests that the opposition to the application for registration of the designation DARTMOUTH CAPITAL GROUP be sustained and that the registration sought by Applicant be refused.

Please charge the requisite fee in the amount of \$300.00 and charge any additional fees or credit any refunds related to the filing to Deposit Account No. 12-0600.

Respectfully submitted,
LATHROP & GAGE L.C.

Dated: September 30, 2008

By: /William R. Hansen/

William R. Hansen
Bridget A. Short
Thomas J. FitzGerald
Attorneys for Opposer
230 Park Avenue, Suite 1847
New York, New York 10169
(212) 850-6229

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the present NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on September 30, 2008.

/Thomas J. FitzGerald/
Thomas J. FitzGerald

CERTIFICATE OF SERVICE

I hereby certify that a copy of the present NOTICE OF OPPOSITION was sent *via* Certified mail, return receipt requested, postage prepaid, to the following address on September 30, 2008, such being the address of the Applicant and the named Correspondent of record listed in the Trademark Applications and Registrations Retrieval (TARR) system as of this date for the subject Application:

Miles, Ralph
1390 Liberty Avenue
North Bellmore, New York 11710-2429

/Thomas J. FitzGerald/
Thomas J. FitzGerald

NYDOCS 60815v2